REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1, 22, 32 and 34-39 are currently being amended.

Claim 59 is being added.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-3, 5-20, 22, 24-32, 34-41 and 43-59 are now pending in this application.

Claim Objections

Claim 34 was again objected to by the Examiner as allegedly being indefinite for reciting an "arrangement." Applicant has amended each of claims 34-38 to replace "arrangement" with "apparatus." Accordingly, the objection to the claim should now be withdrawn.

Claim Rejections

Claims 1-3, 5-20, 22, 24-32, 34-41 and 43-58 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application No. 20020064149 to Elliott et al. (hereinafter "Elliott") in view of U.S. Patent Application No. 20040088348 to Yeager et al. (hereinafter "Yeager") and further in view of U.S. Patent Publication No. 20040111575 to Arimilli et al. (hereinafter "Arimilli"). Applicant respectfully traverses the rejection for at least the following reasons.

Applicant again notes that, while the Examiner describes the present application as having an effective filing date of September 27, 2006, the present application is a national stage filing of a PCT application filed on June 29, 2004, and a foreign application filed on February 27, 2004.

Regarding the rejection of the claims, as noted in an earlier reply by Applicant, embodiments of the present invention relate to the transfer of files between a sending device and receiving user equipment. Transfer of such files may require accommodation of certain limitations. For example, as noted in the specification, "[t]o be able to transfer the file from the sending device, such as a digital camera, to the receiving user equipment, such as a mobile station, the sending device needs to re-size the files to fit to the limitation." Specification, page 6, lines 1-3. In accordance with embodiments of the present invention, information relating to the transfer method and/or the receiving user equipment is used to assess if the data file is to be modified. The assessment may be used to accordingly modify the data file.

In certain embodiments, a clone data file is created of the original data file, and the clone file is modified. Thus, the original data file may be left intact. When the file transfer is completed, the cloned data file may be deleted from the sending device to save storage capacity, for example. See Specification, page 10, line 1-5.

The Examiner cites Elliot as allegedly disclosing "assessing, based on information relating to a transfer method and/or receiving user equipment, if the data file is to be modified" at paragraphs [0457] and [1702]. See Office Action dated March 5, 2009, Page 4. Applicant respectfully disagrees with the Examiner's interpretation of the disclosure of Elliot as applied to the pending claims.

Elliott discloses that telephone calls, data and other multimedia information is routed through a hybrid network which includes transfer of the information across the internet. See Elliott, Abstract. A media order entry captures complete user profile information for a user. In accordance with the disclosure of Elliott, this profile information is used by the system throughout the media experience for routing, billing, monitoring, reporting and other media control functions. Users can manage aspects of the network and control network activities from a central site. The hybrid network also contains logic for responding to requests for quality of service and reserving the resources to provide the requested services.

Elliott further describes that message switching can be used to transfer data. See Elliott, paragraph [0457]. With this form of switching, no physical path is established in

advance between the sender and receiver. Instead, whenever the sender has a block of data to be sent, the data is stored at the first switching office and re-transmitted to the next switching point after error inspection. Message switching places no limit on block size, thus requiring that switching stations must have discs to buffer long blocks of data. A single block may tie up a line for many minutes, rendering the message switching useless for interactive traffic.

Further, Elliot discloses that sub-classing and inheritance make it possible to extend and modify objects through deriving new kinds of objects from the standard classes available in the system. See Elliott, paragraph [1702]. Thus new capabilities may be created without having to start from scratch.

Elliott fails to teach or suggest assessing and modifying data based on information relating to a transfer method and/or receiving user equipment. The Examiner cites the error inspection step as being relevant to assessing and modifying the data file. Applicant respectfully disagrees. Elliott discloses assessing and modifying data to be transferred by assessing if any errors are present in the data and then correcting these errors in accordance with an error inspection step. No assessment or modification is performed based on the transfer method and/or receiving user equipment.

Thus, Elliott fails to teach or suggest at least this feature of the pending claims. Yeager and Arimilli fail to cure this deficiency of Elliot.

Further, as acknowledged by the Examiner, Elliott fails to teach or suggest "various transfer methods." Office Action dated March 5, 2009, page 4. The Examiner cites Yeager as allegedly disclosing this feature at Yeager, paragraph [0460]. Applicant respectfully disagrees with the Examiner's interpretation of the disclosure of Yeager as applied to the pending claims.

The cited portion of Yeager discloses various data transfer methods which may be implemented by pipes to provide a different quality of service. In accordance with the disclosure of Yeager, transfer methods include synchronous request-response; streaming; bulk transfer; and secure. However, Yeager fails to teach or suggest assessing a data file and modifying a clone data file based on information relating to the transfer method to be used.

Rather, Yeager discloses that the data should be transferred in accordance with a certain transfer method based on the desired quality of service. There is no teaching or suggestion in Yeager, in the cited portion or elsewhere, to modify the data according to the specific data transfer method which is selected.

Thus, Yeager fails to teach or suggest at least the above-noted feature of the pending claims. Further, neither Elliott nor Arimilli cure this deficiency of Yeager.

Further, as acknowledged by the Examiner, neither Elliott nor Yeager teach or suggest the creation of a clone data file. See Office Action dated March 5, 2009, pages 4-5. The Examiner cites Arimilli as allegedly disclosing this feature at Arimilli, paragraph [0066]. Applicant respectfully disagrees with the Examiner's interpretation of the disclosure of Arimilli as applied to the pending claims.

Arimilli discloses the implementation of a data clone operation involving cloning of data from a memory location A to another memory location B. However, there is no teaching or suggestion in Arimilli of assessing a data file based on information relating to a transfer method and/or receiving user equipment and modifying a clone data file in accordance with this information. Further, Elliott and Yeager fail to cure this deficiency of Arimilli.

Thus, since the cited references, either alone or in combination, fail to teach or suggest at least the above-noted features of the pending claims, the Office Action fails to establish a *prima facie* case of obviousness.

In order to expedite prosecution, Applicant has amended each of independent claims 1, 22, 32, 34 and 39 to further distinguish the pending claims from the cited references. In this regard, in accordance with certain embodiments of the present invention, the receiving user equipment may be configured to send a message comprising the received data file to another device. The data file may be assessed and modified to be compatible with the message. Support for this feature may be found in the originally filed specification and drawings at, for example, page 4, lines 6-10; page 5, lines 29-31; page 6, lines 10-14; page 9, lines 19-29; and page 10, lines 22-32. Each of independent claims 1, 22, 32, 34 and 39 has been amended to recite this feature.

Thus, as described in the originally filed specification, user equipment may support sending of further messages to other devices using a multimedia message service (MMS) which is limited to certain file sizes or formats. Accordingly, even if a sending device modifies and sends a data file to a receiving user equipment based on a method of transfer and/or the capabilities of the receiving user equipment to decode and display a data file, the data file may be in a format or file size not suitable for incorporation into future messages to be sent by the receiving user equipment to other devices using a message format such as MMS. Thus, embodiments of the present invention may be advantageous over such arrangements in ensuring that the data file is modified into a suitable format/size from the outset such that it can be readily forwarded by the receiving user equipment to other devices without further modification to the data file in the receiving user equipment.

None of the cited references teach or suggest this feature.

Accordingly, independent claims 1, 22, 32, 34 and 39 are patentable. Claims 2, 3 and 5-20 depend, either directly or indirectly, from allowable claim 1 and are, therefore, patentable for at least that reason, as well as for additional patentable features when those claims are considered as a whole. Similarly, claims 24-31 depend from allowable claim 22, claims 35-38 depend from allowable claim 34, and claims 40, 41 and 43-58 depend from allowable claim 39. Therefore, claims 24-31, 35-38, 40, 41 and 43-58 are patentable for at least that reason, as well as for additional patentable features when those claims are considered as a whole.

New claim 59 is believed to be patentable for reasons similar to those discussed above.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment,

to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date 5 June 2009   By   /G. Peter Albert, Jr./

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